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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,612	01/30/2004	Peter Gotz	031211-084	5643

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EXAMINER

TOTH, KAREN E

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/767,612	Applicant(s) GOTZ ET AL.	
	Examiner Karen E. Toth	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,7 and 9-18 is/are rejected.
- 7) ☒ Claim(s) 5, 8, 13, 14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/8/04 and 1/30/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "33" has been used to designate both a component of the release valve (element 8) in figure 1 and grooves on the surface of a connector (element 9) in figure 2.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the ability to connect the measuring cell and the operating unit to each other in at least two different predetermined positions with respect to each other must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

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Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claims 13 and 14 are objected to because of the following informalities:

(1) Claim 13 states "the removable connecting and bolting element." It is suggested that this be changed to --the at least one of a removable connecting element and a bolting element--.

(2) Claim 14 states "the at least one connecting element and bolting element." For consistency, it is suggested that this be changed to --the at least one of a removable connecting element and a bolting element--.

For examination purposes, the aforementioned claims have been treated as such.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3, 4, 7, 15 and 18 are rejected under 35 U.S.C. 102(a) as being anticipated by Lia'765 (US Patent Application Publication No. 2003/0114765).

Lia'765 discloses a blood pressure measuring apparatus (element 50) comprising a pneumatic assembly (element 20) that is used for generation of pressure (paragraph [0024]) and an attached gage (element 30). Said pneumatic assembly includes a depressible bulb (element 21) that is used to manually generate pressure by squeezing (paragraph [0030]); and a bleed valve (element 27) (paragraph [0027]). Said gage comprises a dial face with measurement indicia (paragraph [0020]).

Regarding Claim 3, Lia'765 further discloses that the gage (element 30) and pneumatic assembly (element 20) are joined together at a port (element 86) which receives a hose (element 19) (paragraph [0025]). The port and hose may be connected in a plurality of rotational positions.

Regarding Claim 4, Lia'765 further discloses that the gage (element 30) and pneumatic assembly (element 20) are joined together at a port (element 86) which receives a hose (element 19) (paragraph [0025]). The port and hose may be connected in a plurality of rotational positions, including positions 180 degrees opposite each other.

Regarding Claim 7, Lia'765 further discloses that the gage (element 30) and pneumatic assembly (element 20) are removably joined together at a port (element 86) which receives a hose (element 19) (paragraph [0025]).

Regarding Claim 15, Lia'765 further discloses that the measuring gage (element 30) is removably held within a socket (element 62) (paragraphs [0026] and [0028];

Figure 3), and may therefore be exchanged for alternate measuring gauges that also fit within the provided socket.

Regarding Claim 18, Lia'765 further discloses that the pressure generated by the pneumatic assembly (element 20) is generated by squeezing a depressible bulb (element 21) (paragraph [0030]). Said bulb is connected to the pneumatic assembly by a hose (element 19) that is slidably attached to a barb (element 87) on a receiving port (element 88) (paragraph [0026]) of the main socket (Figure 3).

7. Claims 1, 2, 6 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Aldridge'310 (US Patent 4108310).

Aldridge'310 discloses a blood pressure testing kit comprising a measurement gauge (element 13) and an operating unit (elements 23-29) (Figure 3). Said operating unit comprises a manual pressure generating device (element 24) and a manual pressure regulating device (element 25) (column 2, lines 25-27). Said measurement gauge is detachably connected to the operating unit by coupling elements (elements 12 and 28) (column 2, lines 2-3 and 28-30).

Regarding Claim 2, Aldridge'310 further discloses that the coupling element on the end of the operating unit (element 28) is designated specifically for the connection of the measurement gauge (column 2, lines 28-30).

Regarding Claim 6, Aldridge'310 further discloses that the measurement gauge (element 13) is connected to the operating unit (elements 23-28) by a plug-in coupling element (elements 12 and 28) (column 2, lines 28-30).

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Regarding Claim 16, Aldridge'310 further discloses that the operating unit comprises a bleed valve (element 25) with a knob (element 29) for adjusting bleed of pressure to the atmosphere (column 2, lines 26-27 and 32-34).

8. Claims 1, 2, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Riester'287 (US Patent 4416287).

Riester'287 discloses a hand-operated blood pressure measuring device comprising a pressure gauge to display pressures (element 1) that is detachably connected to an operating unit (see Figure 1). Said operating unit comprises means for generating pressure (a rubber bulb pump) and regulating pressure (a discharge valve) (column 4, lines 7-14).

Regarding Claim 2, Riester'287 further discloses that said operating unit includes a port, the circular valve seat formed by a ring-shaped bead (element 25) and a valve washer (element 2) (column 5, lines 22-23), that is used to hold the guide piece (element 15) attached to said pressure gauge (element 1), as shown in Figure 1.

Regarding Claim 9, Riester'287 further discloses that a valve washer (element 2) is fabricated from an elastic (rubber) material (column 4, lines 56-59). Said washer is located between the pressure gauge (element 1) and the remainder of the operating unit (see Figure 1).

Regarding Claim 10, Riester'287 further discloses that said valve washer is positioned between the pressure gauge (element 1) and the air outlet bushing (element 4) of the operating unit; said air outlet bushing is screwed into place and thereby compresses the valve washer (column 4, lines 62-65).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lia'765.

Regarding Claim 11, Lia'765 discloses all the elements of the current invention, as applied to Claim 1 above, except for the identifying means for individualizing.

The examiner takes official notice that it is well known in the medical field to identify or personalize a medical item. Doctors often identify their equipment to prevent misuse by others.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have identified or personalized the apparatus of Lia'765 in order to prevent misuse by others.

Regarding Claim 12, Lia'765 discloses all the elements of the current invention, as applied to Claim 11 above, except for attaching the identifying means to a removable connecting element or a bolting element that is used to connect the measuring cell and operating unit.

11. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lia'765.

Regarding Claim 13, Lia'765 discloses all the elements of the current invention, as applied to Claim 7 above, except for the connecting or bolting element being at least partially formed transparent.

The examiner takes official notice that it is well known in the medical field to provide means for the identification of medical items, such as forming components at least partially of transparent material to allow identifying means to be securely contained underneath.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have partially formed the connecting or bolting element of the apparatus of Lia'765 of transparent material in order to allow identification means to be attached to the apparatus.

Regarding Claim 14, Lia'765 discloses all the elements of the claimed invention, as applied to Claim 13 above, except for providing means on the connecting or bolting element for connecting to both the measuring cell and the operating unit.

Lia'765 further discloses that the port element (element 86) that is used to join the operating cell (element 20) and measuring gage (element 30) further includes a

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barb (element 87) for joining to the operating cell and a socket (element 62) which receives the measuring gage (Figure 3).

12. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aldridge'310.

Aldridge'310 discloses all the elements of the current invention, as applied to Claim 16 above, except for the clamping connection being generated by a spring bow.

The applicant has not stated that the choice of a spring bow is for a particular purpose, or that it solves a stated problem. As such, the exact clamping mechanism would have been a mere matter of design choice for one skilled in the art.

Allowable Subject Matter

13. Claims 5 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent 4417586 to Jewett, which discloses a blood pressure measuring apparatus.


US Patent 4116217 to Speidel, which discloses a deflation valve for blood pressure measuring devices.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen E. Toth whose telephone number is 571-272-6824. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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